

### **REMARKS**

Claims 1-5, 8-25 and 30-41 are pending upon entry of the present amendment.

Claims 1-15 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,698,333 to Halliday ("the '333 patent"). It is respectfully submitted that claims 1-5, 8-15, 30 and 33-37, as presently recited, are not anticipated by the '333 patent. Claims 1-29 were rejected under 35 U.S.C. 102(b) as being anticipated by EP638486 ("the EPO publication"). It is respectfully submitted that claims 1-5, 8-25 and 30-39, as presently recited, are not anticipated by the EPO publication.

Claim 1 has been amended to recite that the manifold chamber extends substantially continuously around a periphery of the storage chamber. As discussed below, both the '333 patent and the EPO publication disclose only a channel that extends along three or fewer sides of the compartment. Thus, the channels disclosed in both the '333 patent and the EPO publication do not extend substantially continuously around a periphery of the compartment.

Claim 25 has been amended to recite that the inflow of aqueous medium is into a manifold chamber and the outflow of beverage is from a central discharge chamber. The EPO publication fails to disclose a cartridge where the inflow of aqueous medium is into a manifold chamber and the outflow of beverage is from a central discharge chamber. Instead, the EPO publication disclose an outlet 47 that is at one end of the cartridge, and thus is not centrally located.

Original dependent claim 13 has been rewritten in independent form as new claim 30 to include all of the limitations of the base claim and intermediate claims.

Neither the '333 patent nor the EPO publication disclose a manifold chamber having an inlet portion into which the aqueous medium is introduced, where the inlet portion communicates with the remainder of the manifold chamber via one or more openings and the inlet portion is circular, as required by claim 30. The Office action, pp. 2 and 3, identifies reference character 6 in the '333 patent and the EPO publication as corresponding to a manifold. If the bottom 3 of the cartridge 1 of the '333 patent and the EPO publication were pierced to accommodate an inflow of liquid into the channels 6, as suggested by the Office action, then there is no circular inlet portion into which an aqueous medium is introduced that communicates with the manifold chamber, as defined in claim 30. Accordingly, claim 30 is respectfully submitted to not be anticipated by either the '333 patent or the EPO publication.

Original dependent claim 18 has been rewritten in independent form as new claim 31 to include all of the limitations of the base claim and intermediate claims. Original dependent claim 19, which depended from original dependent claim 18, has been rewritten as new dependent claim 32, which depends from new independent claim 31.

The EPO publication does not disclose a lid being joined to an outer member around a periphery of the cartridge and to an inner member at or near a center of the cartridge, as recited in claim 31. The Office action does not identify any disclosure in the EPO publication of such a lid, and there is no structure at or near a center of the cartridge disclosed in the EPO publication to which a lid could be attached. Thus, it is respectfully submitted that claim 31 is not anticipated by the EPO publication.

Original dependent claim 8 has been rewritten in independent form as new claim 33 to include all of the limitations of the base claim and intermediate claims. Original dependent claims 9-12, which depend from original dependent claim 8, have been rewritten as new dependent claims 34-37, which depend from new independent claim 34.

Neither the '333 patent nor the EPO publication disclose a cartridge having a manifold chamber substantially encircling a storage chamber, as recited in claim 33. The Office action, pp. 2 and 3, identifies reference character 6 in the '333 patent and the EPO publication as corresponding to a manifold. However, both the '333 patent and EPO publication only disclose that the channel "preferably extends along at least one side of the compartment, more preferably along three sides of the compartment." (Col. 3, ll. 37-40 (the '333 patent); col. 3, ll. 20-23 (the EPO publication).) Thus, the '333 patent and EPO publication only disclose a channel extending along three or fewer sides of the generally rectangular compartment. A channel extending along three or fewer sides of a generally rectangular compartment does not substantially encircle the compartment. Accordingly, it is respectfully submitted that independent claim 33, and claims 34-37 dependent therefrom, are not anticipated by either the '333 patent or the EPO publication.

New claims 40 and 41 are also submitted to be allowable.

For the reasons set forth above, claims 1-5, 8-25 and 30-41 are believed to be allowable over the cited references, and reconsideration and allowance of claims 1-5, 8-25 and 30-41 are respectfully requested.

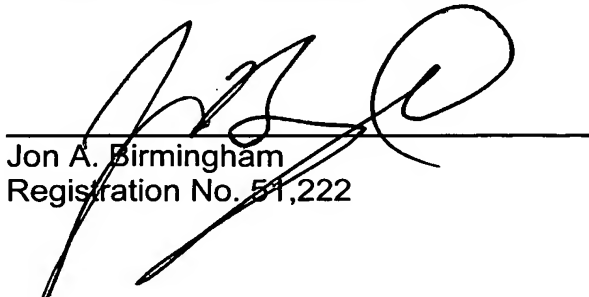
Application No. 10/763,457  
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The Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

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